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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/721,303

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Rajesh Pendekanti

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EXAMINER

GIBSON, ROY DEAN

ART UNIT

PAPER NUMBER

3739

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/721,303	Applicant(s) PENDEKANTI ET AL.	
	Examiner Roy D. Gibson	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7, 11-20 and 25-29 is/are allowed.
- 6) ☒ Claim(s) 8, 21 and 22 is/are rejected.
- 7) ☒ Claim(s) 9, 10, 23 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/30/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 11 and 21 are objected to because of the following informalities: in line 5 the colon (:) after "wherein" should be removed. In amendment of claim 18 the added words "electrical" were not underlined to reveal how the claim was changed. Also a period is missing at the end of the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Rydell et al. (5,258,006). Rydell et al. disclose an ablation device, comprising:

- a first jaw (27a) including a first electrode (24);
- a second jaw (27b) having a proximal end and including a second electrode (24), the second jaw operatively associated with the first jaw and opposing the first jaw;
- an actuation mechanism (Figure 1) releasably coupled to the proximal end of the second jaw;

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a first actuation member (12) responsive to the actuation mechanism, and extending from the proximal end of the second jaw for causing a clamping movement of the first and second jaws; and

an electrical supply line (Figure 3, # 13) responsive to the actuation mechanism, and extending from the proximal end of the second jaw for electrically energizing the first and second electrodes (col. 5, line 29-col. 9, line 2).

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 8 is rejected under 35 U.S.C. 102(e) as being anticipated by Phan (US 2005/0090817). Phan discloses an ablation device, comprising:

a first jaw including a first electrode (Figure 7);

a second jaw having a proximal end and including a second electrode (Figure 7), the second jaw operatively associated with the first jaw and opposing the first jaw;

an actuation mechanism (Figure 7) releasably coupled to the proximal end of the second jaw (# 600 mates to # 602 by rotation, thus releasably coupled);

a first actuation member (Figure 2) responsive to the actuation mechanism, and extending from the proximal end of the second jaw for causing a clamping movement of the first and second jaws; and

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an electrical supply line (Figure 2) responsive to the actuation mechanism, and extending from the proximal end of the second jaw for electrically energizing the first and second electrodes (p. 2, [0023-0026], p. 4, [0041]-p. 5, [0043]).

Claims 21 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Whitman (6,698,643). Whitman discloses a stapler head, comprising:

- a first jaw including an anvil (Figure 5 or 20);

- a second jaw operatively associated with the first jaw, opposing the first jaw and including a staple driving mechanism; and

- a staple holder including a staple supply; wherein:

 - the staple holder is removably receivable by the second jaw (a removable tray of staples);

 - the staple supply is actuable by the staple driving mechanism when the staple holder is received by the second jaw; and wherein

 - a first actuation member responsive to an actuation mechanism for causing a clamping movement of the first and second jaws; and

 - a second actuation member responsive to the actuation mechanism for controlling the staple driving mechanism to fire the staples (col. 7, line 19-col. 10, line 37).

Allowable Subject Matter

Claims 1-7, 11-20 and 25-29 are allowed.

Claims 9-10 and 22-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gabby (6,638,285) discloses a surgical stapler and associated strip for sealing tissue.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 571-272-4767. The examiner can normally be reached on Tu-Th, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Roy D. Gibson
Primary Examiner
Art Unit 3739

May 15, 2006